

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE DIVERSIFICATION)	
OF RURAL ELECTRIC COOPERATIVE CORPORATIONS)	ADMINISTRATIVE
INTO THE SATELLITE-DELIVERED TELEVISION)	CASE NO. 326
PROGRAMING SERVICES)	

O R D E R

This matter arising upon petition of Green River Electric Corporation ("Green River") filed August 17, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the Shareholders' Agreement of Kentucky Telecommunications, Inc. ("KTI") on the grounds that public disclosure of the information is likely to cause KTI competitive injury and it appearing to this Commission as follows:

Green River seeks to protect as confidential the Shareholders' Agreement of KTI attached as an exhibit to the testimony of Kenneth A. Hazelwood served in this proceeding on August 16, 1990. In support of its position, Green River states that the document contains confidential information about the structure of KTI, the business and activities of KTI, and the capitalization of KTI which is not publicly available and which competitors could use to gain an unfair commercial advantage over KTI.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to

cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The petition does not establish that disclosure of the information is likely to cause competitive injury or harm to Green River from whom it was obtained. On the contrary, the petition states that the injury or harm would be suffered by KTI, a third party to this proceeding. Furthermore, while the petition alleges competitive injury to KTI, it does not identify the competitors who would benefit from the information nor does it describe how the information could be used by competitors to KTI's disadvantage. Therefore, the petition should be denied.

Because the information may be of a sensitive nature, KTI should be permitted to intervene in this proceeding for the purpose of protecting the information from disclosure. Therefore, the information should be withheld from the public record for a period of 15 days to allow KTI an opportunity to take appropriate action if it deems it necessary to protect the information as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by Green River to protect as confidential the KTI Shareholders' Agreement submitted as an exhibit to the testimony of Kenneth A. Hazelwood be and is hereby denied.

2. The information sought to be protected shall be withheld as confidential and proprietary for a period of 15 days from the date of this Order to allow KTI an opportunity to intervene in this proceeding and to file a petition for confidential protection of the information if it deems such protection is necessary to preserve its competitive position.

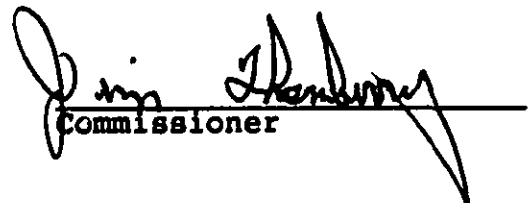
3. Any petition filed by KTI shall identify competitors who would benefit from the information sought to be protected and shall describe the manner in which the information could be used by such competitors to gain an unfair advantage over KTI.

Done at Frankfort, Kentucky, this 17th day of September, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director